

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Temporary Management of Adult Community Care Facilities and Residential
Care Facilities for the Elderly

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on October 30, 2018, at the following address:

Office Building # 8
744 P St., Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify CDSS at least two weeks prior to the hearing.

Statements or arguments related to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on October 30, 2018.

Following the public hearing, CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations](http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information) (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

Office of Regulations Development
California Department of Social Services
744 P Street, MS 8-4-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
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CHAPTERS

Title 22, Division 6, Chapter 10 (Temporary Management of Adult Community Care Facilities and Residential Care Facilities for the Elderly), Sections 89600 (General), 89601 (Definitions), 89632 (Temporary Manager Candidate List), 89633 (Temporary Manager Appointment), 89637 (Facility Improvement Plan), 89662 (Finances), and 89667 (Temporary Manager Qualifications).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In October 2013, 19 frail seniors were abandoned at a community care facility in Castro Valley by the licensee after CDSS began license revocation proceedings due to the facility's numerous violations that threatened the health and safety of the residents. The licensee abandoned the facility and left the country, leaving the residents and staff to their own resources. This tragic event led to numerous reform bills and prompted the Legislature to adopt Senate Bill 855, Chapter 29, Statutes of 2014 (SB 855).

Current regulations for adult community care facilities and Residential Care Facilities for the Elderly do not provide the needed specific provisions for the selection process and requirements of a temporary manager. The CDSS has determined that these proposed regulations will affect adult community care facilities and Residential Care Facilities for the Elderly. These regulations will be adopted to implement SB 855 that established the role of a Temporary Manager.

For adult community care facilities and Residential Care Facilities for the Elderly, a temporary manager means the person, corporation, or other entity appointed temporarily by the CDSS as a substitute facility licensee or administrator with authority to hire, terminate, reassign staff, obligate facility funds, alter facility procedures, and manage the facility to correct deficiencies identified in the facility's operation. The temporary manager assumes all responsibility for the facility and its clients and directs the daily operation of the facility and care and supervision activities of any person associated with the facility, including superseding the authority of the licensee and the administrator.

The CDSS has a crucial role in the oversight, licensure and enforcement of regulations for the temporary management of adult community care facilities and Residential Care Facilities for the Elderly. The regulations in this package are written to specify the requirements for the qualifications, selection and appointment of a temporary manager, the duties of the temporary manager as outlined in the facility improvement plan and the limitations on expenditures and encumbrances by the temporary manager.

Due to the imminent risk to health and safety that predicates the need to place a temporary manager appointment, this regulations package shall be processed as emergency regulations with the Office of Administrative Law (OAL). This is necessary in order to maintain immediate preservation of public peace, health and safety as well as the general welfare of the population that will be served when there is a need for a temporary manager appointment. It is the intent of CDSS to promulgate these emergency regulations to ensure the needs and services of the client population served by adult community care facilities and Residential Care Facilities for the Elderly are met.

The Department considered other possible related regulations in this area, and we find that these are the only regulations dealing in this subject area (Licensing of temporary managers for adult community care facilities and Residential Care Facilities for the Elderly), and therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting SB 855, Section 11 (Health and Safety Code section 1546.1) and Section 24 (Health and Safety Code section 1569.481), as well as with existing state regulations.

The following forms are incorporated by reference:

LIC 200TM (6/18)

LIC 215TM (6/18)

LIC 216TM (6/18)

COST ESTIMATE

1. Costs or Savings to State Agencies: Since 2013, the CDSS has executed two contracts for temporary managers and anticipates this trend to continue. Therefore, the fiscal impact of this regulation is expected to be minimal and absorbable within the existing budget.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies. There are no state-mandated local costs in this order that require reimbursement under the laws of California. Implementation of the regulations only impact adult residential community care facilities or Residential Care Facilities for the Elderly with the applicable circumstances in Health and Safety Code section 1546.1(c) or 1569.481(c).

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the proposed regulatory action, which was designed to impact only the facilities in which the applicable circumstances in Health and Safety Code section 1546.1(c) or 1569.481(c) exist. These regulations do not compel other licensees to take any action. The facilities of other licensees will not be eliminated or expanded, and new facilities will not be created.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The CDSS has determined there is no impact on small businesses as a result of filing these regulations. These regulations only impact individuals and entities that make the business decision to pursue the role of a Temporary Manager.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

No economic impact is anticipated for the CDSS or for adult community care facilities and Residential Care Facilities for the Elderly licensees by this regulatory activity as determined by the economic impact assessment. The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. This regulatory action will help support the health and safety of residents in adult residential community care facilities and Residential Care Facilities for the Elderly and will help facilitate the appointment of a temporary manager.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did not consider any other alternatives because the Legislature, through the above-mentioned bill, mandates the Department's oversight of temporary managers and no alternatives were proposed.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 1530, 1546.1, 1569.30 and 1569.481, Health and Safety Code. Subject regulations implement and make specific Sections 1546.1, 1550, 1550.5, 1556, 1569.19, 1569.481, 1569.482, 1569.50, 1569.525 and 1569.682, Health and Safety Code.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Everardo Vaca	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code section 11346.4.